

[Advertisement.]

THE WATER-CURE JOURNAL FOR JUNE, NOW
ready, contains: Duties of Physicians; Water-Cure for Horsemasters; Electro-Chemical Treatment; Experience of an Editor; Ventilation; Science and Humanity; Medical Reform; The Hair and Teeth; Physiology; Young Italy; Home Voices; Topics of the Month; The Discussion; Miscellany; A New Family Hand Mill; Wine at the Lord's Supper; New Prospects of WATER-CURE JOURNAL. Monthly. \$1 a year.

FOWLER AND WELLS, No. 909 Broadway, N. Y.

SUPERIOR COURT—TAX TEAM—30-Before Judge Oakes.

The Jury in the case of Fry Agt. Bennett were sent out before 5 o'clock, with directions to bring in a verdict either in the morning or afternoon. The case was a simple one, and the jury returned a verdict in favor of the plaintiff, and the same charge was read, by consent, that was delivered at the former trial. In this way the proceedings were practically closed.

Before Judge BOSWORTH.

DUTY OF COMMISSION MERCHANTS—COHN LAW.

At the instance of the plaintiff, the case was argued by Mr. Cohn Law. This action was commenced in 1847, and five trials have been had, in each of which the Jury have disagreed. It is a cause of considerable importance to the merchants of this city.

In 1854, the plaintiffs, composing the firm of J. & R. Deniston, of this city, procured from the defendant, John Nichols, of Liverpool, the defendants, a cargo of the house of Deniston, Wain & Co. of this city, 5,000 barrels of flour per ship Nicholas. The plaintiffs claimed that the defendant, John Nichols, with directions not to sell until the passage or defeat of the "Corn Laws," then pending in Parliament, should have sold the cargo at the time that they were sold, and that the defendants on the 24th of Aug. 1846, for 21st sterling, and that by the "Corn Laws" for 29th sterling.

The defendant, John Nichols, then appeared, and contended that the difference upon each barrel sold of the cargo of the Nicholas Biddle, alleging that A. Deniston & Co. had purchased their cargo of John Nichols, and indignantly in denying that at the time that they did

the defendants to the other hand insist that it was the duty of the Corn Law Commission to have provided for the possibility of such a calamity, and that owing to the failure of the Corn Law Commission to do so, the defendants are liable for the loss of an unprecedented harvest, it was their duty to dispose of the flour at the time they did; that the flour was hoarded, leaving it to rot, and that the subsequent rise was the result of the potato blight, which subsequently devastated Ireland and England, and which could not have been foreseen by the defendants, and that at the same time the price of flour rose, and the defendants were forced to sell at still lower prices.

Testes, £ 825 6d for plaintiffs, Messrs. B. Brady and Edwards for defendants, Messrs. J. C. Cutting, M. S. B. Dwyer, and Foster and Thompson for defendants.

S: PRIME COURT—SPECIAL TERM—MAY 30.—Before Judge ROOSEVELT.

THE BRICK CHURCH PROPERTY.

Robert H. Aikenburgh and William T. Paley vs. The Mayor of New York City, et al.

PURSUANT to adjournment, the argument on the injunction proceeded at 10 p. m., at the residence of Judge Roosevelt.

In behalf of the plaintiffs, substantially, the following points were taken and argued at some length.

1. The Commissioners of the Sinking Fund have no authority to sell the property in question, and the conditions of the mortgage, which the performance having first been passed by the Common Council authorizing the same.

2. The condition was created by the Commission Council in their legislative capacity, and it can only be removed by the same power.

3. The arrangement made by the Commissioners of the Sinking Fund with the Trustees of the Brick Church, by which the city was to be interested to the extent of and was to receive one-fourth, and the Church to be interested to the extent of and receive three-fourth of the proceeds of the property, was made without any lawful authority, and renders the sale void; because

1st. It was virtually a sale of the interest of the city at private sale.

2d. It tended to prevent competition at the sale—a purchaser never knew what title he would get, whether or not encumbered with a law suit.

4. The only power of sale the constituted authorities and members of the public have over the estate of a deceased person is to sell the same for the benefit of his creditors, after due notice of the time and place of sale, and the sale must be for the entire interest of the city therein, and the proceeds must be paid to the city for the interest of others therein is not established.

5. The sale of the interest of the Brick Church at private sale and for a purpose other than that of the sinking fund, as provided therein, at auction was a violation of the agreement upon which the sale was to be made, and a fraud, and should therefore avoid the sale.

6. The directors of the Sinking Fund have no power to dispose of any portion of the real estate of the city "in use for or reserved for public purposes."

7. The directors of the Sinking Fund are not the Common Council. Vid. S. 7, page 80 *Davies's Laws of the City*.

8. This arrangement made privately between the City and the Brick Church, whereby the interest of the city should be taken at one fourth of the whole, was a palpable evasion of the amended charter, and is null and void, and the same is hereby declared null and void, that provision of the Charter, in all cases where the city has interests which are not the subject of exact calculation.

9. The directors of the Sinking Fund have no authority to sell in grant, and to all their estate in the premises. But what seems to be inserted is sufficient to show that the directors of the Sinking Fund have no authority to sell the private sale, while the statute

require it to be taxed under by the sale.

Before Judge Lusk.

Dudley S. Gregory agt. John Pickersgill et al. Motion granted.

Isaac Steinberg et al. agt. Jacob W. Straus et al. Motion denied without costs.

UNITED STATES DISTRICT COURT—May 30.—Before Judge Ingersoll.

COUNTERFEIT COIN—THE INDICTMENT.

James Kelly and Ellen Cunningham were tried on a charge of passing two counterfeit half dollars to one Timothy O'Brien, and were both convicted. Their counsel, Mr. Spencer, moved for a new trial on the ground of a flaw in the indictment, when specified in all the counts the two half dollars in question as "counted at the mint of the United States." The court held that the charge of passing coins of the above description was not indictable under the laws of this country.

COURT CALENDAR—THIS DAY.

Motions and decisions in all the courts.

MARRIED.

AMER.—COOPER—In Lancaster, Pa., on Thursday, May 29, Dr. Wm. N. Amer to Miss Lizzie R. Cooper, all of Lancaster.

BALDWIN.—FISHER—In Fitch, Cheshire County, on Thursday, May 27, by the Rev. E. L. Benedict, Mr. Daniel S. Baldwin of Fitch, to Miss Ellen K., only daughter of Lester Fisher, agt. of Brooklyn, N. Y.

BANKS.—BENTLEY—On Thursday, May 29, Francis's Bank to Charlotte Augusta Bennett, all of this city.

GROVES—MILLIGAN—At Elizabeth, N. J., on Wednesday, May 28, by the Rev. Dr. Maule H. E. Eugene Ogden of Elizabeth, N. J., to Elizabeth M., eldest daughter of Gilbert N. Milligan, agt. formerly of this city.

Loomis—ASHLEY—In West Springfield, Mass., on Wednesday, May 28, at the Congregational Church, by the Rev. T. H. Briggs, D.D., of Cambridge, to Miss Anna Ashley of the former place.

The confidants and acquaintances of who know him.

The friends and relatives of the family, and members of the New York Typographical Union, are invited to attend his funeral from his late residence, No. 184 Madison street, on 2 o'clock (one afternoon, without further notice. His remains will be taken to Leavenworth Cemetery for interment.

Washington, D. C., and Albany papers please copy.

MARY ANN POWERS, late of the Town of Chateaufort, of Chateaufort, Mo. deceased, aged 7 years, 4 months and 26 days.

POWERS—On Thursday, May 27, Catherine Powers, the late 31-year-old daughter.

POWERS—On Friday, May 30, Wm. M. Powers, in the 66th year of his age.

The friends and relatives of the family are respectfully invited to attend his funeral from his late residence, No. 203 Fifth street, on Saturday afternoon, at 2 o'clock. The remains will be taken to Greenwood.

Q'UIN—At Baltimore, on Monday, May 27, Michael Quin, aged 41 years.

REED—At Greenbush, on Thursday, May 15, Mrs. Esther Reed, aged 55 years. She was a woman of amiable and respectable Christian character, and died as she had lived, with a peaceful mind and a happy conscience.

SPOTEN—On Thursday, May 25, Harriet, wife of Thomas H. Spoten, aged 54 years, 7 months and 9 days.

SMITH—At Philadelphia, on Wednesday, May 27, Mariah, wife of Henry Smith in the 74th year of her age.